

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed October 21, 2004. At the time of the Office Action, Claims 1-25 were pending in this Application. Claims 1-13 and 15-25 were rejected.

Rejections under 35 U.S.C. § 112

Claim 18 was rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the written description and enablement requirement. Claim 18 has been cancelled.

Rejections under 35 U.S.C. § 102

Claims 1-13, 15-16, 19-21, and 25 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,976,656 issued to Andre Giraud ("Giraud"). This patent was cited as a reference in the parent case, and successfully distinguished.

Claim 1 recites an armor having three different layers. Each layer is recited to have a different placement, function, and material properties.

The outer layer recited in Claim 1 is an accelerating layer. The function of the accelerating layer is clearly recited. The following recitation describes what happens at the accelerating layer and the effect of the accelerating layer on the plug layer.

wherein the plugs are made from a material different from the accelerating layer and after any plug is impacted by the projectile, that plug is operable to obtain the velocity of the projectile before the projectile perforates the plug;

This recitation is supported on page 9, lines 1-9, which teach that *without* an accelerating layer, the plug will reduce the velocity of the projectile. This akin to the layers of Giraud. However, in Claim 1, *with* the accelerating layer, the plug will obtain the velocity of the projective before perforating the plug.

It is true that Giraud teaches the use of multiple layers. Giraud also states that the layers may be different materials.

However, Giraud teaches layers having two functions, not three. The layers are summarized as “several layers of energy absorbing layers, possibly separated by layers of hard and rigid materials” (Col. 6, lines 41 - 46).

Giraud further states “the material fulfills two functions”. On material “resists breakthrough”. The other “absorbs energy” (Col. 6, lines 47-53).

Nowhere does Giraud teach or imply a layer having a third function. More significantly, nowhere does Giraud teach the use of an accelerating layer. Nowhere does Giraud teach that one layer might be used to affect the velocity of the projectile.

In fact, Giraud teaches away from an accelerating layer. Giraud teaches an outer (“first”) layer that “resists breakthrough” and has a “high crushing stress” (Col. 6, lines 55-58). This is not the same as a material that accelerates the plug.

Claim 1 further recites a projectile-plug combination:

wherein a projectile-plug combination is formed before the projectile perforates the plug, such that the projectile-plug combination increases the presented area of impact to an area greater than that of the projectile when the projectile-plug combination reaches the energy absorbing layer.

Nowhere does Giraud teach a plug-projectile combination that forms before a next layer is reached. In fact, Figures 4-6 teach away from this feature of the invention.

For the reasons stated above, Claim 1 is allowable as are its independent claims.

Rejections under 35 U.S.C. §103

Claims 17-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Giraud in view of U.S. Patent 5,060,553 issued to Ronald W. Jones (“Jones”).

The arguments presented above in connection with the §102 rejection also apply to the §103 rejection. Giraud does not teach or suggest the invention of Claim 1, and in fact, teaches away from the invention of Claim 1.

Allowable Subject Matter

Applicants appreciate Examiner's consideration and indication that Claim 14 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of all pending claims as amended.

Applicants enclose a Petition for Extension of Time (two months) and a check in the amount of \$450.00 for the extension fee. Applicants believes there are no other fees due at this time, however, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 50-2148 of Baker Botts L.L.P. in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2634.

Respectfully submitted,
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